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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,
v.

400 ACRES OF LAND, more or less,
situate in Lincoln County, State of Nevada;
and JESSIE J. COX, et al.,

Defendants.

Case No. 2:15-cv-01743-MMD-NJK

**STIPULATION REGARDING TRIAL
PROCEDURES**

1 The Parties respectfully submit the following Stipulation Regarding Trial Procedures:

2 **RECITALS**

3 WHEREAS, the Court entered a Minute Order on January 17, 2020 (Dkt. 572) providing,
4 *inter alia*, that (1) the Parties each shall submit a trial brief not to exceed 30-pages setting forth
5 the Parties' stipulated facts and issues to be tried, (2) Defendants shall number their trial exhibits
6 beginning with number 500 (or a number to follow Plaintiff's last exhibit number, if Plaintiff has
7 more than 500 exhibits), and (3) the Parties shall provide to the Court four complete sets of all
8 exhibits;

9 WHEREAS, the Court previously entered a Joint Pretrial Order setting forth the Parties'
10 stipulated facts and listing the issues to be tried (Dkt. 566);

11 WHEREAS, in light of the Joint Pretrial Order, the Parties do not believe that trial briefs
12 are necessary;

13 WHEREAS, the Parties additionally believe that they should not brief legal and factual
14 issues to the Commission prior to the trial;

15 WHEREAS, prior to issuance of the Minute Order, the Parties already had exchanged
16 pre-marked copies of exhibits, and Defendants had pre-marked their exhibits as Defendants'
17 Exhibit 1, Defendants' Exhibit 2, etc.;

18 WHEREAS, Defendants respectfully request that they be excused from the burden of re-
19 numbering their exhibits, and the United States has no objection to this request;

20 WHEREAS, the Parties have voluminous exhibits and believe that the Court and
21 Commission would benefit from the Parties providing hard copies only of those exhibits that
22 they expect to use at trial, as opposed to all trial exhibits (i.e., hard copies of "may use" exhibits
23 would not be provided except in electronic form);

24 WHEREAS, to the extent that the Parties put forward a "may use" exhibit not previously
25 provided in the binders, the Parties will be prepared to hand-up hard copies of such exhibits to
26 the Commission and Court deputy/administrator;

1 WHEREAS, the Parties have agreed that the trial time for witness examinations should
2 be divided equally and, to that end, have agreed to a “chess clock” method of keeping track of
3 time;

4 WHEREAS, the Parties have agreed on a procedure for disclosing demonstrative exhibits
5 and the order of calling witnesses; and

6 WHEREAS, the Parties respectfully request that the Court so order these stipulations.
7

8 **STIPULATIONS FOR TRIAL**

9 NOW THEREFORE, the Parties stipulate as follows with respect to the trial scheduled in
10 this case:

11 1.) The Minute Order entered on January 17, 2020 (Dkt. 572) (“Minute Order”) is
12 hereby amended to eliminate the requirement of submission of trial briefs. The Joint Pretrial
13 Order entered by the Court (Dkt. 566), which sets forth the stipulated facts and issues to be tried,
14 shall be provided to the Commission, without the attached Exhibits, in lieu of trial briefs.

15 2.) The Minute Order is hereby amended to permit Defendants’ trial exhibits to be
16 assigned numbers beginning with Defendants’ Exhibit 1, Defendants’ Exhibit 2, etc, Defendants
17 do not need to begin numbering their exhibits at 500 or some greater number to follow Plaintiff’s
18 exhibit numbers.

19 3.) The Minute Order is hereby amended to require the Parties to submit to the
20 Courtroom Administrator, one week before trial, four (4) binders of only those exhibits that the
21 Parties expect to use at trial; however, the electronic copy of the exhibits to be provided to the
22 Courtroom Administrator shall include all exhibits that the Parties may use at trial. To the extent
23 that the Parties use at trial any exhibit not provided in the binders, they shall have hard copies
24 available for all of the Commissioners and the Courtroom Deputy/Administrator.

25 4.) Plaintiff and Defendants shall be allocated equal time for examining witnesses (to
26 spend however each party deems appropriate). To that end, a “chess clock” method is adopted
27 for the trial. Plaintiff and Defendants shall delegate a person to keep track of witness
28 examination time, and these two representatives shall confer and agree during breaks regarding

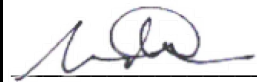
1 the time each party used to examine the witness(es). Time spent by the Commissioners to
2 examine a witness shall not be counted against either party, nor shall time arguing any legal or
3 factual issue. The trial is scheduled for nine (9) days of witness testimony, or an estimated 54
4 total hours of witness examination time (nine days multiplied by six hours of witness
5 examination). Plaintiff and Defendants accordingly each shall have an estimated maximum of
6 twenty-seven (27) hours of witness examination time to use however they deem appropriate
7 (although they need not use all of their allocated time). The estimated maximum examination
8 time that may be used by either Plaintiff or Defendants may be modified by the Commission,
9 provided that Plaintiff and Defendants are accorded equal time for examining witnesses.

10 5.) Any demonstrative exhibit shall be disclosed to the other party by 6:00pm on the
11 day preceding the use of such demonstrative exhibit.

12 6.) Each party shall disclose the witnesses that they intend to call the next day of trial.
13 These disclosures shall be made by 6:00pm on the day preceding the calling of said witnesses.

14
15 WHEREFORE, the Parties respectfully request that the Court so order the above
16 stipulations.

17
18
19 **SO ORDERED:**

20
21 

22 THE HON. MIRANDA M. DU
23 UNITED STATES DISTRICT JUDGE

24 Dated: January 23, 2020
25
26
27
28

FOR THE PARTIES:

Dated January 23, 2020

FOR PLAINTIFF:

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TROY K. FLAKE
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/s/ Eugene N. Hansen
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Counsel for Defendant Tanis Landowners

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2020, I caused the foregoing Stipulation Regarding Trial Issues to be served on all Parties who have appeared in this action using the Court's case management/electronic case filing system. I further certify that on January 23, 2020, the United States sent a copy of the foregoing via U.S. mail to the following interested Parties:

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